

AGENDA ITEM #9

March 12, 2004

*(rescheduled from
January 9, 2004)*

To: Delta Protection Commission

From: Margit Aramburu, Executive Director

Subject: Proposed Amended Comments on Location of Proposed Intake for
Freeport Regional Water Project and Draft Environmental Impact Report
[Secondary Zone of the Delta]
(For Public Hearing and Possible Commission Action)

UPDATE:

This matter was rescheduled to the March 2004 meeting. Staff has submitted the revised comment letter, as attached. The Commission should consider concurring with the staff comments. If the Commission does vote to concur, staff would send a brief letter to that effect to the Freeport Regional Water Authority.

The Authority has five members, two from East Bay Municipal Utility District (Katy Foulkes and John Coleman), two from Sacramento County (Supervisor Don Nottoli and Supervisor Illa Collin, and one from the City of Sacramento (Councilmember Bonnie Pannell).

Staff Recommendation:

Review staff report, accept public comments, and determine whether to direct staff to submit a letter on the proposed Freeport Regional Water Project that supports the proposed location of the intake on the east side of the Sacramento River in the Secondary Zone of the Delta. The revisions to the comment letter reflect the analysis of the "Intake Structure Siting Summary" reviewed by staff in January 2004.

Description of the Proposed Project:

The proposed project is a new water supply intake to serve the Sacramento County Water Agency (SCWA) and East Bay Municipal Utility District (EBMUD). EBMUD would have capacity of up to 100 million gallons a day (MGD) water of exports and SCWA would have capacity of up to 85 mgd. EBMUD has a contract with the Central Valley Project (CVP) for its water. The SCWA which has rights to 15,000 acre feet per year of water from the CVP, is seeking reassignment of 27,000 acre feet per year of water from Sacramento Municipal Utility District, and currently seeking water rights to 16,000 acre

feet per year from the State Water Board. In the future, SCWA may seek up to 12,000 acre feet per year of additional water rights. The water is to serve future needs in central Sacramento County.

The proposed intake is located on the Sacramento River to allow the CVP waters to remain in the American River for environmental and recreational purposes. The intake total capacity will be 185 mgd and will include state of the art fish screens.

The EBMUD water will be piped due east to the Folsom South Canal and then south to the Mokelumne Aqueduct near the Camanche Reservoir.

CALFED/California Bay-Delta Authority:

The contract between EBMUD and the Bureau of Reclamation preceded the CALFED planning process, and the Freeport Project is not listed in the CALFED Record of Decision. This is NOT a CALFED project.

Commission Review of the Proposed Project:

In January 2003, the Commission received a Fact Sheet and Public Comment Overview regarding the Freeport Regional Water Project.

In March 2003, the Commission was briefed on the proposed project by the project manager.

In November 2003, the Draft Environmental Impact Report on the Project was released and staff prepared and submitted the attached comments to meet the review deadline (attached). The proposed project is a new intake structure and associated treatment and pumping facilities to provide drinking water for portions of Sacramento County and for customers of the East Bay Municipal Utility District. The source of the water is Folsom Reservoir; the intake is proposed on the Sacramento River to protect the resources of the American River.

The Final Environmental Impact Report was released on March 10, 2004, and recommends the project be located on the east side of the Sacramento River.

Evaluation of the Location of the Proposed Intake Structure:

In November 2003, a separate report entitled "Intake Structure Siting Summary" was released describing the various locations evaluated for the proposed project. The intake is proposed east of I-5, just south of the Pocket neighborhood in the City of Sacramento on publicly owned land east of the Sacramento River. Other locations were evaluated: two on the west side of the Sacramento River in Yolo County and a more southerly location on the east side of the Sacramento River, north of the Community of Freeport (map attached).

All proposed sites were selected to be an appropriate distance away from any treatment plant discharge pipe and from any marina.

The two sites in Yolo County are both privately-owned; the public road on the levee would be impacted, and the more southerly site would require the relocation of two residences.

The alternative site in Sacramento County is in a straight section of the River, and would not incorporate a bend which new research has shown would move fish away from the intake itself. The site may also require dredging to deepen the riverbed adjacent to the proposed intake.

The preferred site in Sacramento County is on a bend in the River, is deep enough to accommodate the intake, and is on publicly owned land (City of Sacramento).

Delta Primary Zone:

The proposed project includes structures in the waters of the Sacramento River and structures on the shoreline. The boundary between the Primary Zone (Yolo County) and the Secondary Zone (Sacramento County) in the portion of the Delta is the center of the Sacramento River. Currently, the proposed intake and all other structures in the Project are proposed for the Secondary Zone of the Delta.

Delta Protection Act/Commission Authority Over the Proposed Project:

Local government actions approving certain projects, or developments, may be appealed to the Commission. The Delta Protection Act defines "development". The Act also states that "development" does *not* include "the planning, approval, construction, operation, maintenance, reconstruction, alteration, or removal by a...local agency of any water supply facilities or mitigation or enhancement activities undertaken in connection therewith" (Public Resources Code Section 29723(b)(8)). Approval of the proposed project is not subject to the Commission's appeal authority and any comments from the Commission would be advisory.

Land Use and Resource Management Plan for the Primary Zone of the Delta:

The Commission considered utilities and infrastructure in the Plan for the Delta Primary Zone. The Commission's background report indicates that local drinking water needs for the Primary Zone are largely provided by wells. There are no water intakes serving the Secondary Zone located in the Primary Zone. The Commission did adopt a policy that precludes sewage treatment plants that serve the Secondary Zone from being located in the Primary Zone.

The Plan states:

Policy 1: Impacts associated with construction of ...utilities can be mitigated by locating new construction in existing utility or transportation corridors or along property lines, and by minimizing construction impacts....To minimize impacts on agricultural practices, utility lines shall follow edges of fields. Pipelines in utility corridors or existing rights-of-way shall be buried to avoid adverse impacts to terrestrial wildlife. Pipelines crossing agricultural areas shall be buried deep enough to avoid conflicts with normal agricultural or construction activities. Utilities shall be designed and constructed to minimize any detrimental effect on levee integrity or maintenance.

The overriding goal of the Commission's Plan is to protect the integrity of the Primary Zone resources and land uses.

Resources and Land Uses in the Primary Zone:

Agriculture: Lands in Yolo County on the west side of the Sacramento River are in agricultural land use.

The project should be designed and managed to ensure there will be no adverse impact to the agricultural land use.

Wildlife Habitat: The Sacramento River is part of the migratory route for endangered salmon and all the waters of the Legal Delta are critical habitat for the Delta smelt. The proposed intake is located in the waters of the River and includes a large, pile-supported structure.

The intake includes fish screens. The project should be designed and managed to minimize or eliminate impacts to endangered and/or threatened fish species.

Recreation: The Sacramento River is a very popular recreation area and this site is near the Garcia Bend free public launch ramp. The facility is very popular with fishermen year round, recreational boaters, and jet-skiers. A larger structure built over and into the River will remove physical areas from current recreation use and have a visual impact to those recreational users. Noises from the water treatment facility and/or the pumps may have an adverse impact on recreational users on the River.

The proposed facility should be located, designed and managed to avoid adverse impacts on the existing land and water recreation uses.

Levees: The proposed project, if located in the Secondary Zone, would pipe the water over the existing levee, thus eliminating impacts to the existing levee.

The project should be designed and managed to ensure there will be no adverse impact to the levees.

Proposed Further Comments on the Proposed Freeport Intake Structure:

- Utilities serving the Secondary Zone should not be located in the Primary Zone to protect the resources and land uses of the Primary Zone, unless the project can be located and designed to not adversely impact the Primary Zone.
- Proposed projects in the Secondary Zone, but adjacent to the Primary Zone, should carefully and thoughtfully analyze any possible impacts to the resources and land uses of the Primary Zone.
- Impacts of concern include: incompatible land uses, impacts to aquatic and terrestrial habitat, impacts to recreation, impacts to agriculture, and possible impacts to levee stability.
- Projects that could adversely impact the resources and land uses of the Delta Primary Zone should take all precautions and make all impacts to minimize or eliminate those impacts.

Note: Amended Letter Sent by Staff; Changes are bolded and underlined.

January 24, 2004
December 16, 2003

Kurt Kroner, Freeport Regional Water Authority
1510 J Street #140
Sacramento, CA 95814

Subject: **Revised Comment Letter on** Draft Environmental Impact Report (DEIR)
Freeport Regional Water Project; SCH # 2002032132

Dear Mr. Kroner:

I am writing regarding the above-named environmental document for the new 185 million gallons per day capacity intake to be shared by Sacramento County Water Agency and East Bay Municipal Utility District. The Commission itself has not had the opportunity to review the DEIR so these are staff comments only. They are, however, based on the Delta Protection Act and the Land Use and Resource Management Plan for the Primary Zone of the Delta, the Commission's law and regional plan adopted in 1995.]

Project Location and Commission Jurisdiction:

The proposed project is on the Sacramento River and adjacent shoreline in Sacramento County in the Secondary Zone of the Delta. The location is opposite lands in Yolo County in the Primary Zone of the Delta. The Secondary Zone is located outside the Commission's planning area, but the Commission has incorporated recommendations into its regional plan. Commission comments on projects in the Secondary Zone are advisory only.

Comment: The DEIR should describe the proposed project's location within the Legal Delta and within the Secondary Zone of the Delta and directly east of the boundary between the Primary Zone of the Delta and the Secondary Zone of the Delta. The DEIR should describe how the proposed project conforms with the Commission's law and regional plan recommendations.

Impacts on Agricultural Uses in the Delta Primary Zone:

One of the key goals of the Commission's law and regional plan is the protection of agricultural land. The proposed project would be located directly east of actively farmed lands in Yolo County in the Primary Zone of the Delta. The Commission's regional plan recommends the creation of adequate buffers, between 300 and 500 feet wide, between

new development and existing land uses in the Delta Primary Zone.

Comment: The DEIR should identify the agricultural lands in Yolo County near the proposed intake and determine if the proposed intake would impact the existing agricultural land use.

Comment: The proposed location of the intake on the east side of the Sacramento River appears to have the least impact on agricultural land uses in the Delta Primary Zone.

Impacts to Recreation in the Primary Zone:

The Commission is charged with protection and enhancement of recreation in the Delta Primary Zone. Some recreation--bank fishing, biking--takes place on the Yolo County levee and additional recreation takes place on the waters of the Sacramento River--fishing, water-skiing, cruising, etc. The proposed structure would protrude significantly into the Sacramento River, thus displacing vessel traffic and impacting the aesthetics and views of boating in the vicinity of the proposed intake.

The proposed structure would be located adjacent to Highway 160, a State of California designed scenic highway. The proposed structure would be clearly visible from the scenic highway, as well as from I-5.

Comment: The DEIR should identify possible impacts to public access and recreation in the Delta Primary Zone, on land and on the water, and evaluate consistency with the Commission's Act and Plan.

Comment: The DEIR should address the visual impacts of the proposed intake structure on Highway 160, a scenic highway. The DEIR should identify possible mitigation measures that could mitigate any identified adverse visual impacts of the proposed intake structures and any other project elements.

Provision of Recreation and Public Access in New Projects in the Secondary Zone:

The Commission's regional plan includes recommendations regarding public access and recreation in the Secondary Zone:

R-3: New projects in the Secondary Zone, adjacent to the Primary Zone, should include commercial and public recreation facilities which allow safe, supervised access to and along the Delta waterways (pedestrian and bike trails, launch ramps including small boat launch ramps, windsurfing access, overlooks, nature observation areas, interpretive information, picnic areas, etc.).

Comment: The DEIR does not address provision of public access and recreation facilities as part of the Freeport Regional Water Project. The DEIR simply states the proposed project would not have a long term adverse impact to the existing and proposed public access in the area. The DEIR should identify possible public access improvements that could be incorporated into the intake site plan, for example, public access trails, benches, and overlooks along the shoreline.

Impacts to Levee Integrity:

Alternative intake locations on the west side of the River in the Primary Zone would require acquisition of private land, realignment of South River Road and associated levee impacts.

Comment: The proposed location of the intake on the east side of the Sacramento River appears to have the least impact on levee integrity in the Delta Primary Zone.

Regional Planning Process: Sacramento River Corridor Planning Forum:

For several months representatives of Cities, Counties, regional and State agencies, and interested parties have been meeting to study construction of physical structures within the Sacramento River channel in the area from the American River south to Courtland. This planning process is on-going and has not yet developed recommendations regarding construction of physical structures in this portion of the Sacramento River Channel, south of the Cities of West Sacramento and Sacramento.

The water intake project does need to be adjacent to the Sacramento River. However, a substantial structure on pilings, some 900 feet long and the approximate size and shape of the Boathouse Marina structure in Locke, is proposed on pilings in the River channel itself.

Comment: The DEIR should identify and describe the Sacramento River Corridor Planning Process and the status of that planning process. The DEIR should also evaluate an alternative where ONLY the intake pipes and fish screens are located within the Sacramento River Channel, and all other structures and facilities are located on the land side of the existing levee, and set back from the levee an adequate distance to allow for levee inspections and continued regular maintenance.

Thank you for the opportunity to comment on the DEIR for the Freeport Regional Water Project. Please call me if you have any questions about this letter or the Commission and its jurisdiction.

Sincerely,

Margit Aramburu
Executive Director

Cc: Chairman Patrick N. McCarty
Supervisor Don Nottoli
Supervisor Mike McGowan
Mayor Christopher Cabaldon
Linda Fiack, Yolo County Planning
Anna Whalen, Sacramento County Planning

State Clearinghouse